




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 31 1998

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

MEMORANDUM

SUBJECT: Request for comments on the Draft-Final GPRA Baseline Facilities List for
Corrective Action

FROM: 
Stephen F. Heare, Acting Director,
Permits and State Programs Division, OSW

TO: RCRA Senior Policy Advisors R 1-10 (see attached list)

This document is a request for comments on the draft-final Corrective Action GPRA Baseline facilities list. This represents the final opportunity for Regional comments on the Baseline facilities list.

Attached to this memorandum is the draft-final list of GPRA baseline facilities for the States within your Region. This list includes the original 9/8/97 RCRIS pull of facilities with the modifications and additions requested by your Region.

Regions (and States) should review this draft-final list of facilities to ensure that the list correctly identifies all sites that belong on the final GPRA Baseline. This document also identifies the procedures that were used to identify these draft-final Baseline facilities. The Region and States should review the draft-final list in light of the procedures explained in Appendix I and make any comments necessary as soon as possible (but prior to Sept. 1, 1998).

HQ will finalize individual Regional lists as soon as possible after receipt of comments on this draft-final list (i.e., the date a Region receives a final Baseline is related to the response to this document).

In order for us to finalize a Regional Baseline we need to be able to verify that the criteria necessary for the removal or addition of sites is met using the codes entered in RCRIS. Given that there is some delay between when RCRIS codes are entered and when they are available to HQ in the Oversight Database it is recommended that the Regions enter the appropriate codes as soon as possible in order for us to be able to finalize their Baseline in a reasonable time frame (all RCRIS code entries to document the additions or deletions need to be entered no later than Sept. 15, 1998).

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Please note that some of the procedures identified in the Oct. 24, 1997 Determination of GPRA Baseline Facilities for Corrective Action memorandum needed to be amended and new procedures were identified to address circumstances included in the Regional submittals. The amendment and new procedures are summarized below and described in detail in Appendix I.

Also note Appendix II which is a "entire-site" referral documentation form that must be signed by the authority the facilities have been referred to indicate their acceptance of all CA responsibilities (which relieves the RCRA CA program from responsibility). This documentation form must be submitted to HQ before we can remove any "referred" facilities from the GPRA Baseline.

In summary, the Draft-Final GPRA Baseline consists of the Historical High NCAPS facilities (as of Sept. 8, 1997), modified by subtracting (-) or adding (+):

- (-) Facilities that Clean Closed all regulated units prior to FY98 and CA070 = No (after verified in RCRIS)
- (-) Entire site Referred to Non-RCRA Federal Authorities (after CA210 is verified in RCRIS, and documentation form is received)
- (-) Sites not High priority in 9/97 (after verified in RCRIS)
- (-) Not in Workload Universe (e.g., Protective filers, LOIS, Non/Late Notifiers, Converters) (after verified in RCRIS)
- (+) Highs in Workload not recorded in RCRIS in 9/97 (after verified in RCRIS)
- (+) Optional/Discretionary (Med./Low NCAPS) sites (up to max. of 15% per State)
- (+) Optional/Discretionary High NCAPS in Subject to CA (after verified in RCRIS)

Please note, if your response to the draft-final list requires any modifications (site additions or deletions) your submittal needs to be signed by a Regional manager with authority over Corrective Action for all of the States within the Region for these changes to be included in the final GPRA Baseline facility list.

I appreciate the substantial efforts being made by you and your staff during this difficult transition to GPRA. If you would like to discuss this further, please let me know. Please direct specific questions on the methodology to Henry Schuver of my staff at (703) 308-8656.

Attachment

cc: EI core workgroup (listed below, via electronic mail)

Addressees:

R1, Kevin McSweeney
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R5, Willie Harris
R1, Matt Hoagland

APPENDIX I

Procedures Used to Construct Draft-Final Baseline List

The draft-final Baseline was constructed using the original RCRIS "pull" of Sept. 8, 1997 and the edits submitted by each Region (i.e., it is not based on a new "pull" from RCRIS). Changes to the status of individual facilities in RCRIS that will affect their addition or deletion from the Baseline, as reported in the Regional submittals, will be verified using the current RCRIS database before the Baseline is finalized. The individual Region's Baselines will be finalized shortly after HQ receives Regional responses to this draft-final list.

Remove Clean Closed Facilities (with No Need of Further CA)

Facilities which have completed clean closure of all of their regulated units (including all impacted soils) prior to FY98, but which have remained in the Workload Universe (as shown in the 9/8/97 RCRIS pull) because they had CA RCRIS Event codes equal or above CA100 (e.g., CA600), may be excluded from the GPRA Baseline by a verifiable indication of no intention of further CA. We are going to use the entry of RCRIS code CA070 with a NO as the status code (RFI is Not Necessary) to indicate that there is no intention of further CA (we can not use CA999 because it is not by definition site wide). This indication that the Region/State has no intention of further corrective action (the entry of a CA070 code with a NO status) will be verified prior to removing these sites and finalizing the Baseline.

Regional submittals in response to the Oct. 24, 1997 memorandum identified very few High priority facilities that were expected to clean close all regulated units (and have no CA obligations) and OSW no longer considers it defensible or advisable to remove these High priority sites from the GPRA Baseline (based only on an expectation that these sites will clean close). For GPRA purposes we have committed to placing all High priority facilities on the GPRA Baseline and it will be difficult to both 1) accurately predict which facilities will clean close (and have no need for CA) and 2) defend our removal of these High priority sites (when some of these may not clean close). Additionally, High priority sites that will be clean closed (due to program activities) are good evidence of program successes and should not be removed from the program record. Therefore, these High priority sites (which are expected to clean close) will remain on the GPRA Baseline so that progress at these sites will be tracked and successes reportable for GPRA purposes.

Remove Facilities Referred to Non-RCRA Federal Authorities

Facilities where all (the entire site's) CA responsibilities have been referred to another Federal (Non-RCRA) authority (e.g., CERCLA) do not belong on the RCRA CA program's Baseline (because the receiving program would account for the progress there for GPRA). However, we can not justifiably remove High priority sites from our Baseline unless their entire site CA responsibilities are accepted by the Federal (Non-RCRA) authority (e.g., CERCLA) we have referred them to. To ensure the removal of these sites from the RCRA CA Baseline is legitimate and verifiable a referral documentation form has been developed (see Appendix II). Facilities can not be removed from the RCRA CA Baseline list until a completed referral form is in HQ's GPRA Baseline administrative file and the site is properly coded in RCRIS as having been referred. While documentation of the referrals could delay the finalization of a Region's Baseline (although the facilities that are being fully addressed by the referred authority should be fairly apparent), we can not remove facilities from our Baseline without verifiable documentation that they are no longer our responsibility.

We anticipate that the majority of current (CA210) "referrals" to other Federal (Non-RCRA) authorities (e.g., CERCLA) are not entire-site referrals, but rather partial-site referrals. The portions of these shared sites not accepted by the referred authority remain the responsibility of the RCRA CA program. Therefore, these sites will remain on the GPRA Baseline for CA and the CA Program will remain responsible for EI determinations (for, at least, the unreferred portions, although the details of this shared responsibility remain to be addressed in the future).

Non-Federal Non-RCRA authorities are considered "Analogous" authorities, and RCRA CA facilities which are considered to have been referred to **Non-Federal** Non-RCRA authorities remain the responsibility of the RCRA CA program (for at least oversight). These facilities will remain on the CA GPRA Baseline and EI determinations and documentation will remain the responsibility of the RCRA CA program (although they may be preformed by the analogous authorities).

Remove Facilities which were not High NCAPS priorities as of 9/8/97

Several Regions have identified facilities that were not High NCAPS priorities as of 9/8/97 but the non-High NCAPS rank was not reflected in RCRIS, at that time, due to timing of RCRIS entries and a number of other reasons. If facilities were not High priorities at the time of the 9/97 Baseline pull (for example, due to changed conditions or permanent remedial actions completed prior to that time) then they do not belong on the (1997) GPRA Baseline and should be removed.

However, facilities that were High at one time but did not have a High NCAPS rank at the time of the 9/97 Baseline pull only because of remedial actions that were not completed by 9/97 (i.e., have ongoing remedial operations, maintenance, or monitoring) should remain on the Baseline. These facilities would remain High priorities without the protection offered by the ongoing remedial activities.

Remove Facilities Not in Workload Universe

Several Regions have identified facilities that do not belong on the GPRA Baseline because they should not be in the Workload Universe (Protective Filers, Loss Of Interim Status, Non- and Late Notifiers, and Converters). These facilities should not have been in the 9/97 RCRIS pull but were due to outdated/incorrect RCRIS entries. These facilities will be removed from the Baseline (after their correct (non-Workload Universe status) is verified in RCRIS).

Add Highs in Workload not recorded in RCRIS in 9/97

Several Regions identified a limited number of facilities that were High NCAPS priorities in the Workload Universe in 9/97 but this did not show on the 9/97 RCRIS pull due to the timing entries or entry errors. These sites will be included in the Baseline after their correct High NCAPS priority status (as of 9/97) can be verified in RCRIS.

Add Optional/Discretionary (Med./Low NCAPS) sites (up to max. of 15% of total/State)

The Regions and States added a number of Optional/Discretionary facilities that did not have High NCAPS ranks but were Regional/State priorities for other reasons. These facilities have been added to the Draft-Final GPRA Baseline (up to the maximum amount of 15% of the State totals).

Add Optional/Discretionary High NCAPS Facilities in Subject to CA Universe

A number of Regions identified High priority facilities in their Subject to CA Universe that they wanted to add to the GPRA Baseline. These facilities will be added to the Baseline after their High priority ranking (as of 9/97) and Subject to CA Universe status in RCRIS is verified. However, we are aware that in some cases, a number of these Subject to CA facilities were protectively ranked High, based on very little data, and more recent data may show some of these facilities not to have been a true High priority, at least at the point of our Baseline (Sept. 1997). To add these sites to our Baseline would not be correct, would cause a misrepresentation of our progress towards GPRA milestones, and make the EI determination/documentation an unnecessary paperwork activity (since these sites are not true High priorities and do not need to have EI evaluations performed and documented).

Therefore, in order to have an accurate list of High priority Subject to CA sites to be added to the Baseline, Regions should re-evaluate any questionable sites and identify those that were not High priorities in 9/97 as soon as possible (and rerank in RCRIS). However, in order to finalize the Baseline in the near future, Regions need to estimate, at this time, the number (and names) of the proposed sites that will be found to have been true High priorities in Sept. 1997. While the names of the individual Subject to CA sites may be substituted, as some are found not have been

true high priorities in Sept. 97 and others not on the list were, the number of High priority Subject to CA sites in the GPRA Baseline will not be allowed to change.

Attached List of Facilities

Attached to this memorandum is the draft-final list of GPRA baseline facilities for the States within your Region. This list includes the original 9/8/97 RCRIS pull of facilities with the modifications and additions requested by your Region. The names of the facilities that are going to be removed, or added, are highlighted in a redline font. Notes for the criteria that must be verified/met to remove or add these facilities is also in a redline font. For the final Baseline, after the appropriate criteria been verified (in RCRIS, and associated documentation forms are received), the font for the facility names that are to be removed will be changed to ~~strikeout~~, and the facility names that are to be added will have the redline font removed.

Additional Requested Identification of Facilities with Potential for Referral to CERCLA

A significant number of RCRA CA facilities are near bankruptcy and/or unwilling or very slow to implement CA responsibilities required by RCRA CA authorities. If the number of these facilities is more than five percent of our Baseline (approx. 75 facilities), and their actions prevent us from documenting positive Human Exposures EI determinations, the Program is not going to meet its GPRA goals (95% - 2005 goal for Human Exposures Controlled).

We are going to have to identify this category of RCRA CA sites sooner or later (either now proactively, or later as an explanation of why we didn't meet our goals). Rather than discovering how many of these sites there are near the end of the GPRA process as we try to explain why we didn't achieve our goals, it may be more advantageous to at least create this category of sites (e.g., "potential CERCLA referrals") to allow observers to acknowledge up front that these sites exist and could prevent us from reaching our goals. Alternatively we could estimate the number of these sites now and try to get them deducted from our Baseline before finalization. Please estimate the number of this type of site that may/could exist in your Region so that we can make further plans on this issues.

Please note, as stated in the attached memorandum, if your response to the draft-final list requires any modifications (site additions or deletions) your submittal needs to be signed by a Regional representative with authority over Corrective Action for all of the States within the Region for these changes to be included in the final GPRA Baseline facility list.

APPENDIX II

Entire-Facility Referral Documentation

RCRA to Non-RCRA Federal Authority

The facility currently known as _____
with EPA ID# _____, located at _____
_____, _____ County, in the state of _____,
is, and remains, a facility subject to RCRA Corrective Action (CA).

However, the RCRA program and _____ (a Non-RCRA Federal Authority) have determined it is most advantageous that the Non-RCRA Federal Authority address the Corrective Action responsibilities at this facility. Because the Non-RCRA Federal Authority has taken responsibility for the cleanup of this entire facility, the Non-RCRA Federal Authority will be tracking their progress under their (e.g., GPRA) measures, and the facility will no longer be tracked on the RCRA CA program's GPRA Baseline or measures.

Branch Chief (or equivalent) _____ Date _____
RCRA CA Program, Region _____

Branch Chief (or equivalent) _____ Date _____

(Non-RCRA Federal Authority)
Region _____